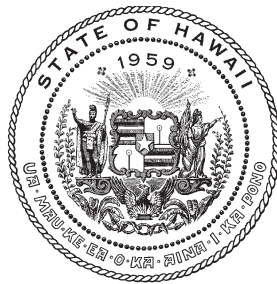


# **AN INTRODUCTION TO THE USE TAX**



**STATE OF HAWAII  
DEPARTMENT OF TAXATION**

**Linda Lingle  
Governor**

**Kurt Kawafuchi  
Director of Taxation**

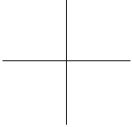
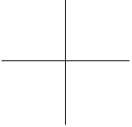
Revised June, 2003



## A MESSAGE FROM THE DIRECTOR

**O**f all of the taxes in the State of Hawaii, one of the least understood may be the use tax. This is the case despite the fact that all taxpayers, including businesses that order something from a mail order catalog or that purchase goods, services, or contracting outside of Hawaii, may be subject to this tax.

The use tax is a tax meant to complement the general excise tax levied on gross income derived from business activity in Hawaii, and thereby to level the playing field for our local vendors. In this brochure, we have tried to explain the use tax and answer some of the most commonly asked questions regarding this tax in a straightforward question and answer format. In addition, we attach appendices which explain the types of imported property, services, or contracting not subject to the use tax, exemptions and deductions, and credit for tax paid to another state. Should you have any further questions, please telephone, write, or e-mail one of our district tax offices. The telephone numbers, mailing addresses, and e-mail addresses are provided to you at the end of this brochure.





### **1. What is the use tax?**

The use tax is an excise tax on the use in the State of tangible personal property imported or purchased from an unlicensed seller, for use in Hawaii. The tax is imposed on the landed value of the imported property.

Effective January 1, 2000, the use tax also is imposed on the value of services or contracting that are performed by an unlicensed seller at a point outside Hawaii and imported or purchased for use in Hawaii. For additional information, you may obtain Department of Taxation Announcement Nos. 99-17 and 2000-15 from the Department's website, through the Department's forms by fax/mail service, or from any district tax office.

### **2. What do you mean by "use in Hawaii"?**

The term, "use," is broadly defined and includes the keeping of goods, services, or contracting in Hawaii for resale to customers, lease or rent to others, personal or business use, consumption, etc.

### **3. What is the landed value of imported tangible personal property?**

The landed value of imported tangible personal property is the fair and reasonable cash value of the property when it arrives in Hawaii. It includes the purchase price, shipping and handling fees, insurance costs, customs duty, etc. It does not include sales tax paid in another state.

### **4. What is the value of imported services and contracting?**

The value of imported services or contracting is the fair and reasonable cash value of the services or contracting when the services or contracting is received by the importer or purchaser.

### **5. When is the use tax imposed?**

The use tax accrues or is imposed when the property is acquired by the importer or purchaser and is physically brought into the State, or when the services or contracting is received by the importer or purchaser in the State.

### **6. In the message at the beginning of this brochure, the Director says that the use tax is meant to complement the general excise tax. What is the general excise tax, and how does the use tax complement it?**

The general excise tax is a tax most taxpayers doing business in Hawaii must pay on the gross income they derive from business activity in Hawaii. Because sellers in Hawaii must pay this tax, it puts them at a price disadvantage with out-of-State businesses not subject to the general excise tax.

The use tax levels the playing field for our local vendors by requiring those acquiring goods, services, or contracting from out-of-State sellers to pay a tax at the same rate that an in-State seller would have paid in general excise tax.

**7. In question 6 above, it is stated that the use tax levels the playing field for our local vendors by requiring those acquiring goods, services, or contracting from out-of-State sellers to pay a tax at the same rate that an in-State seller would have paid in general excise tax. Does this mean that there is no use tax on the importation of property, services, or contracting if an in-State seller would have been exempt from the general excise tax on the sale of the property, services, or contracting?**

Yes. The Director of Taxation is authorized to conform the imposition of the use tax on imported property, services, or contracting with the Constitution or laws of the United States by: (1) Exempting or excluding the imposition of the use tax on property, services, or contracting exempt from the general excise tax, or (2) Apportioning the gross value of services or contracting sold to customers within Hawaii by persons engaged in business both within and without Hawaii to determine the value of the portion of the services or contracting that is subject to the general excise tax under section 237-21, Hawaii Revised Statutes.

For example, administrative services, including bookkeeping and personnel services performed by the mainland headquarters of a financial institution for their Hawaii branch are not subject to the use tax. If the administrative services instead were performed by the Hawaii branch, the general excise tax would not be imposed on these services.

For additional information, you may obtain Tax Information Release 2001-2 from the Department's website, through the Department's forms by fax/mail service, or from any district tax office.

**8. Are businesses subject to the general excise tax the only ones who have to pay the use tax?**

No, non-profit groups, individuals who are not in business, and businesses such as public service companies, which may not be subject to the general excise tax also are subject to the use tax.

Individuals who are not in business may, however, avoid some of the registration and reporting requirements. See question 48 below for more information.

**9. Does the use tax only apply to imports from foreign countries?**

No, the use tax is imposed on tangible personal property, services, or contracting imported from anywhere outside of Hawaii

whether the property, services, or contracting is from a foreign country, the continental United States, a U.S. territory, etc.

**10. If I purchase something from a vendor who is located outside of Hawaii for sale to a customer in Hawaii, and if I have the vendor ship it directly to my customer, will I still have to pay the use tax?**

Yes, you must still pay any applicable use tax. Because you are the one who caused the item to be imported, you will be subject to any applicable use tax even if you do not physically first receive it yourself. (See also question 20 below.)

**11. What are the use tax rates?**

Tangible personal property

No use tax is imposed if the property is imported for sale at the wholesale level. (See question 21 below.)

The use tax is imposed at the rate of  $\frac{1}{2}$  of 1% (0.5%) on the landed value of imported tangible personal property which will be: 1) sold at the retail level, 2) leased or rented, 3) incorporated by a manufacturer into a finished or saleable product in such form that it remains perceptible to the senses and which subsequently is sold at the retail level, or 4) incorporated by a contractor into a finished work or project in such a form that it remains perceptible to the senses.

The use tax is imposed at the rate of 4% on all other tangible personal property imported into Hawaii (i.e., property imported into Hawaii for your own use or for consumption).

Services or Contracting

No use tax is imposed if the imported services or contracting become an identifiable element (excluding overhead) of a product or service which the importer or purchaser resells at the  $\frac{1}{2}$  of 1% general excise tax rate or the phased-in general excise tax rates under section 237-13.3, Hawaii Revised Statutes.

The use tax is imposed at the rate of  $\frac{1}{2}$  of 1% (0.5%) if the imported services or contracting become an identifiable element (excluding overhead) of a product, service, or construction project which the importer or purchaser resells at the 4% general excise tax rate.

The use tax is imposed at the rate of 4% on all other services or contracting imported into Hawaii (i.e., services or contracting imported into Hawaii for your own use or for consumption).

**12. What do you mean when you say, “remains perceptible to the senses”?**

In general, this means that the imported tangible personal property can still be seen, touched, or otherwise perceived by the unaided human senses as being the item imported after it is incorporated into the finished or saleable product, or the finished work or project.

For example, if a contractor imports doorknobs and installs them as part of a construction project, they are still recognizable as doorknobs which can be seen and touched. The doorknobs, therefore, remain perceptible to the senses. Other examples include fabric, wood, nails, etc.

**13. Our leasing company purchases machinery in the continental United States and leases the equipment to customers for use in Hawaii. Will we need to pay use tax on the equipment shipped to our Hawaii customers?**

Yes, the landed value of machinery brought into Hawaii and leased to your customers for use in Hawaii will be subject to the use tax at the rate of 0.5%.

**14. Our Hawaii law firm was hired by a client in a medical malpractice lawsuit. Our law firm will hire a California doctor to review medical reports and hospital records that will be used during the litigation. The California doctor will review the medical reports and hospital records in California and will not perform any services in Hawaii. Will our law firm need to pay use tax on the imported services performed by the California doctor?**

Yes, the value of the services imported into Hawaii and used during the litigation will be subject to the use tax at the rate of 0.5%.

**15. I will be purchasing, in another state, office supplies to be used in my Hawaii business. How much use tax will I have to pay?**

The use tax will be 4% of the landed value of the office supplies. The landed value of tangible personal property imported into Hawaii for use (not lease or resale) by the importer is taxed at the rate of 4%.

**16. I will be purchasing, through the Internet, custom software (software made to the customer's specifications) from an out-of-state company to be used in my Hawaii business. How much use tax will I have to pay?**

The use tax will be 4% of the value of the imported services purchased and downloaded from the Internet for use or consumption by your business.

**17. We are planning a vacation and plan to purchase a new car in another state to use while sightseeing. At the end of**

**our vacation, we will have the car shipped home to Hawaii. How much use tax will we need to pay?**

The use tax will be 4% of the landed value of the car. For more information, you may obtain Tax information Release 93-3 from the Department's website, through the Department's forms by fax/mail service, or from any district tax office.

NOTE: Effective January 1, 2003, Act 225, Session Laws of Hawaii 2002, requires owners of motor vehicles of the current, previous, and subsequent year model bought out-of-state, subsequently brought into the State, and subject to the use tax, to provide with the application for registration, proof of payment of the use tax.

**18. I am a Hawaii home owner. I will have to engage a mainland architect to draw plans for my new home. The architect will not perform any work in Hawaii and will pay no general excise tax on the gross income received for drawing the plans. Will I have to pay the use tax on the imported contracting?**

The use tax will be 4% of the value of the imported plans.

**19. I am a contractor working on a project in Hawaii. I will have to engage a mainland engineer to perform contracting work for the project. The engineer does not perform any work in Hawaii. Will I have to pay the use tax on the imported contracting?**

You will not need to report the value of the imported contracting for use tax purposes.

Hawaii law excludes the use of contracting imported or purchased by a contractor who is licensed under the general excise tax, engaged in business as a contractor, and subject to the use tax on imported contracting. This use tax exclusion applies to imported contracting when the same contracting performed by a local contractor or specialty contractor would have qualified for the general excise tax subcontractor deduction.

**20. The use tax rates are similar to the general excise tax rates. How are the use tax rates related to the general excise tax rates?**

The use tax and general excise tax are different taxes which, as complementary taxes (see question 6 above), have identical rates for comparable circumstances.

If a purchase from an unlicensed seller (i.e., a seller who is not subject to the general excise tax) that is located outside of Hawaii would have been the equivalent of a purchase at wholesale subject to the 0.5% general excise tax rate if the purchase had been

made in Hawaii, the use tax rate also would be 0.5%. (Also see question 21 below.)

Likewise, if a purchase from an unlicensed seller located outside of Hawaii would have been the equivalent of a purchase at retail subject to the 4% general excise tax rate if the purchase had been made in Hawaii, the use tax rate also would be 4%.

NOTE: Because they are different although complementary taxes, a person who imports tangible personal property into Hawaii for lease or resale at retail may be subject to both the use tax on the importation and the general excise tax on the sale or lease of the property. (See question 23 below.)

**21. I am a local distributor and only sell my goods at the wholesale level. When I buy locally produced/manufactured goods from a licensed vendor in Hawaii, the sale is subject to the general excise tax at the 0.5% rate. Due to its complementary nature to the general excise tax, if I purchase similar goods from an unlicensed seller outside of Hawaii to resell at the wholesale level in Hawaii, must I pay the 0.5% use tax when the goods are imported?**

No, you will not have to pay any use tax in this situation.

Although the seller would have been subject to the general excise tax at the rate of 0.5% on the sale to you had the sale occurred in Hawaii, there is an exception to the general rule stated in question 20 above for imported tangible personal property which is sold at the wholesale level. No use tax is imposed on the landed value of tangible personal property imported for sale at the wholesale level. (See question 29 below for reporting requirements.)

**22. Are there any other exceptions to the general rule stated in question 20 above?**

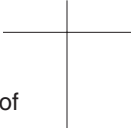
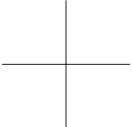
Yes. See Appendix II of this brochure for more information.

**23. Is it possible that I might have to pay both the use tax and the general excise tax on the same item?**

Yes, it is possible to pay both the use tax and the general excise tax on the same item because each tax is imposed on a different transaction. The use tax is imposed on the importation of the property, services, or contracting into the State, whereas the general excise tax is imposed on the business activity generating income such as a leasing or sales activity.

For example, if you purchase hardware from a manufacturer outside of the State of Hawaii and then import it into Hawaii for sale at retail, you will be subject to a 0.5% use tax on the landed value of the hardware when it is imported, and later to a 4% gen-





eral excise tax on the gross income derived from the retail sale of the hardware.

**24. If I buy something from someone outside of Hawaii who is not in the business of selling the property and import it into Hawaii, will I still have to pay the use tax on its landed value when it arrives in Hawaii?**

A sale of tangible personal property by someone not in the business of selling the property is called a casual sale. Because gross income derived from a casual sale is excluded from gross income subject to the general excise tax, the landed value of imported tangible personal property acquired in a casual sale also is NOT subject to the use tax.

For example, if you purchase a used car from a used car dealership and import the car to Hawaii, you will need to pay use tax on the importation of the car. However, if you purchase a used car from an individual selling his or her personal car and import that car to Hawaii, you will NOT need to pay any use tax on the importation of that car.

**25. While visiting some friends outside of Hawaii, I was given some jewelry as a birthday present. Will I have to pay the use tax on its landed value when I return to Hawaii?**

Because the value of gifts is excluded from the definition of “use,” the landed value of imported tangible personal property received as a bona fide gift is NOT subject to the use tax.

CAUTION: Imported tangible personal property you purchase with money given to you as a gift is subject to the use tax.

**26. I am a contractor working on a project in Hawaii. In order to complete the project, I will have to bring in a specialized machine for six months from my main location on the mainland, U.S. Will I have to pay the use tax when it arrives in Hawaii?**

You will not need to report the landed value of the machine for use tax purposes.

Hawaii law excludes property, not of a perishable or quickly consumable nature, that is imported into the State for temporary use (not sale) from the use tax. In general, property which is intended to be and which actually stays in Hawaii for 365 days or less is considered to be temporarily in Hawaii.

**27. Will I need to pay the use tax on all the household goods I have shipped to Hawaii when I move?**

Probably not.

Hawaii law excludes household goods brought into Hawaii, provided that ALL of the following conditions are met: 1) the goods were acquired outside of Hawaii; 2) the person was a nonresident of Hawaii at the time of acquisition; 3) the goods were acquired for use outside of Hawaii; and 4) actual and substantial use of the property was made outside of Hawaii.

If property is acquired less than three months prior to importation, the Department of Taxation (Department) will treat it as though it was acquired for use in Hawaii and that its use outside of Hawaii was not actual or substantial.

**28. Are there any other situations in which the landed value of imported tangible personal property does not have to be reported?**

Yes, other exclusions are provided under Hawaii law. The four exclusions discussed in questions 24 through 27 above are only the most common. A complete list is found in Appendix I of this brochure.

**29. If imports for sale at wholesale are not taxed (see question 21), must the landed value of these imports still be reported?**

The landed value of tangible personal property imported for sale at wholesale by a person who has a general excise tax license does not need to be reported UNLESS the importer also sells at the retail level.

If the importer sells at both the wholesale and retail levels, the importer must first report the entire landed value, and then deduct the landed value of the imports sold at the wholesale level.

**30. At the time I import goods to sell, I don't know if they will be sold at wholesale or retail. How do I figure out the amount I can deduct?**

There are four methods used to compute the landed value of imports for sale at wholesale which may be deducted.

The first three methods are the direct cost method, the percentage of wholesale sales to total sales method, and the gross profit percentage method.

The fourth option lets you choose any other method which will reflect your correct tax liability. If you wish to use this option, your proposed method must be submitted to the Department for prior approval.

See Appendix II of this brochure for more information.

**31. I purchased something in another state and paid that state's sales tax. Do I also have to pay the Hawaii use tax when I bring it back to Hawaii with me?**

You will have to report the landed value of that item for use tax purposes. However, any sales tax you pay to another state may be taken as a credit to offset the Hawaii use tax.

NOTE: The sales tax you paid on any item only may be used to offset the use tax on that item. Any excess sales tax paid may not be used to offset the use tax due on the landed value of a different item, nor will it be refunded.

Information on claiming this credit is found in Appendix III of this brochure.

**32. My company is not located in Hawaii, but we may have isolated sales to customers in Hawaii. Are we subject to the use tax on the goods imported to Hawaii for sale to our Hawaii customers, and are we also subject to the general excise tax on the gross income we derive from the sales to our Hawaii customers?**

Your company may or may not be subject to the use and general excise taxes depending on your situation.

Your company is not subject to the taxing jurisdiction of Hawaii, including the use and general excise taxes, if it does not have sufficient presence in Hawaii. If your company sends the goods to your customers via the mail or common carrier, does not have an office, employees, representation, or inventory or other property in Hawaii, and does not provide supplementary services in Hawaii such as installation, training, or maintenance and repair of equipment, then your company is not subject to either the use tax or the general excise tax.

If, however, your company has property in Hawaii, provides services, or acquires a presence in Hawaii for any period of time, then your company will likely be subject to the taxing jurisdiction of Hawaii for both the use and general excise taxes. If so, your company should apply for a general excise tax license. For additional information, you may obtain Tax Information Release 95-5 from the Department's website, through the Department's forms by fax/mail service, or from any district tax office.

Contact any district tax office should you have any questions regarding what constitutes doing business in Hawaii. (See also question 33 below, and the informational brochure, "An Introduction to the General Excise Tax.")

**33. We have a contract with the State of Hawaii to "furnish and deliver" some equipment. No installation, training, or any services will be provided, and delivery will be by common carrier. Once the goods are delivered and deemed acceptable, payment to us will be made. Our company does not have any offices, employees, property, inventory, or**

**any other contact with Hawaii. Do we have to pay the use or general excise taxes on this sale?**

Under the described conditions, it appears your company does not have sufficient contact with Hawaii to be subject to our taxing jurisdiction as a result of this contract. Therefore, your company will not be subject to the use or general excise taxes.

**34. I run a mail order business located outside Hawaii. Catalogs are sent to potential customers and orders placed with us via our toll free telephone number or handy order form. The purchased goods are sent via U.S. mail or common carrier. Am I subject to the use and general excise taxes, or am I required to collect the use tax from my Hawaii customers?**

You will be subject to the use and general excise taxes if the conditions mentioned in question 32 above are met.

If you are not subject to the use and general excise taxes, then your Hawaii customer is considered the importer who is required to register for and pay the use tax. Although you are not required to collect the use tax from these customers, you may choose to voluntarily register to collect the 4% use tax from your Hawaii customers. Doing so will benefit your nonbusiness customers by relieving them of the responsibility to individually register for and pay the use tax due to the State. This voluntary registration is commonly known as the seller's collection of use tax.

**35. What do I need to do in order to register for the use tax?**

Fill out the State of Hawaii Basic Business Application (Form BB-1). If submitting the application through the mail, submit the original copy and make a copy for your records.

NOTE: If you are subject to the general excise tax and complete Form BB-1 to register for the general excise tax, you do not have to separately register for the use tax. Those registered for the general excise tax are automatically registered for the use tax.

If you are not subject to the use tax but want to voluntarily register to collect the use tax from your Hawaii customers, you also must complete Form G-9, Application For Registration and For Authority to Collect the Use Tax.

Applications may be obtained from the Department's website, through the Department's forms by fax/mail service, or from any district tax office. On Oahu, you may also obtain an application from the Business Action Center on Nimitz Highway or at the Business Action Service Center at the Department of Commerce and Consumer Affairs.

**36. Is there a registration fee for the use tax?**

No, there is no registration fee.

**37. I am doing business in Hawaii and already have completed the application and obtained my general excise tax license. Do I need to amend my application to add the use tax?**

No, an amended application is not required. Applicants for a general excise tax license are automatically registered for the use tax. Your general excise tax license number also serves as your use tax number.

**38. What will I receive after sending in my application for a use tax identification number?**

Approximately 3 to 4 weeks after sending in your application to register for the use tax only, you will receive a copy of your application with your identification number written on it and a supply of use tax returns, Form G-26.

If you registered for the general excise tax (and therefore are automatically registered for the use tax), you will receive your general excise tax license in approximately 3 to 4 weeks, and your booklet of the combined general excise/use tax return forms (Form G-45 and Form G-49) after that.

If you voluntarily registered for the seller's collection of use tax, you will receive a copy of your application with your identification number written on it and a supply of the combined general excise/use tax return forms (Form G-45) in approximately 3 to 4 weeks.

**39. Is there a way I can get my identification number and forms sooner?**

Yes. If two copies of the application are brought in person to the Department, an identification number will be assigned and reporting forms given to you immediately.

**IMPORTANT:** Applications which are merely dropped off at the Department will be treated as if they had been mailed.

**40. How do I make changes to the information on the application form?**

Changes to your mailing or business address may be made on the Change of Address Form (Form GEW-TA-RV-2).

Other common changes such as changes to the taxpayer's name or business name and adding or deleting partners or corporate officers may be made on the General Excise/ Use, Employer's Withholding, Transient Accommodations, and Rental Motor Vehicle and Tour Vehicle Application Changes form (Form GEW-TA-RV-5).

These forms may be obtained from the Department's website, through the Department's forms by fax/mail service, or from any district tax office.

**41. If I no longer need a use tax identification number, what should I do?**

Those registered for use tax but not for general excise tax should complete the Notification of Cancellation of General Excise, Withholding, Transient Accommodations, or Rental Motor Vehicle and Tour Vehicle Accounts (Form GEW-TA-RV-1) and submit it to the Department. Although there is no option for "use tax only" or "seller's collection of use tax," fill in the date next to "My General Excise, as of" and indicate that it is for use tax only or seller's collection of use tax, as applicable. This form may be obtained from the Department's website, through the Department's forms by fax/mail service, or from any district tax office.

**42. What form do I use to report the landed value of the imported property and the value of imported services or contracting, and to pay the use tax?**

Form G-45, the periodic general excise/use tax return, is used by taxpayers who are subject to both the general excise tax and the use tax or who are registered for the seller's collection of use tax.

Form G-26, Use Tax Return - Imports for Consumption, is used by taxpayers who must pay the use tax but who are not subject to the general excise tax. (See question 8 above.)

**43. How often must use tax returns be filed?**

Taxpayers registered for the general excise tax may report their use tax on their combined general excise and use tax return, Form G-45, either monthly, quarterly (every 3 months), or semi-annually (every 6 months) as permitted for their general excise tax filing.

Taxpayers whose total annual general excise and use tax liability exceeds \$100,000 are required to make their payments by electronic funds transfer (EFT). For additional information, you may obtain Tax Information Release 95-6 and Department of Taxation Announcement 2002-4 from the Department's website, through the Department's forms by fax/mail service, or from any district tax office.

Taxpayers registered for the seller's collection of use tax, however, must file Form G-45 for each month in which use tax was collected from their Hawaii customers; quarterly and semiannual filing are not permitted. A return does not need to be filed for those months in which no use tax was collected.

Taxpayers registered only for the use tax must file one Form G-26 for each month in which tangible personal property, services, or contracting was imported; quarterly and semiannual filing are not permitted. A return does not need to be filed for those months in which no tangible personal property, services, or contracting was imported.

#### **44. When are use tax returns due?**

Both forms on which the use tax is reported (Forms G-26 and G-45) are due one month following the close of the filing period; that is, you have one month to file them. For example, the tax return for the month of June must be filed on or before the last day of July.

A tax return is filed on time if it is dropped off at the Department or postmarked on or before the due date of the return. In addition to the U.S. Postal Service, certain private delivery service companies designated by the Internal Revenue Service can be used to meet the due date provided that the date recorded or marked by the private delivery service company is on or before the due date of the return. If the due date falls on a weekend or holiday, the tax return is considered timely filed if filed on the first work day immediately following that weekend or holiday.

#### **45. Must I file an annual use tax return at the end of the year?**

No, an annual tax return summarizing the entire tax year is not required UNLESS you also are subject to the general excise tax.

If you are subject to both the use tax and the general excise tax, then both taxes are summarized on the General Excise/Use Tax Annual Return and Reconciliation (Form G-49). Please refer to the Department's publication entitled, "An Introduction to the General Excise Tax," for further information.

#### **46. What should I check before I file my tax returns?**

Check your math calculations. Be sure to sign and date the tax return. Your check, made payable to the "HAWAII STATE TAX COLLECTOR" in U.S. dollars, should be attached to the tax return. If you are filing Form G-26, write the filing period, "Form G-26", and your use tax identification number on the check so that your payment will be properly credited if it is accidentally separated from the tax return. If you are filing Form G-45 or Form G-49, write the filing period or tax year, "GE", and your general excise/use tax identification number on the check. Also complete and attach Form VP-1, Tax Payment Voucher, to the tax return.

#### **47. Where do I file my tax returns?**

Your completed tax returns must be signed, dated, and submitted with any payments to the Department. Mailing addresses are provided at the end of this brochure.

Forms G-45 and G-49 can be filed electronically through the State's Internet portal at [www.ehawaii.gov.org/efile](http://www.ehawaii.gov.org/efile).

**48. I am an individual who is not in business and only would have to pay use tax once or twice a year when I go on an out-of-State trip or order from a catalog or on the Internet. Must I go through the trouble of applying for a use tax number and filing use tax returns?**

No, you do not.

Instead of registering for your own registration number and filing Form G-26, the Department will permit individuals who are not in business to merely submit a letter with a check for the use tax due.

The letter must contain: 1 ) your name, 2) your social security number, 3) the date you imported the property, services, or contracting, 4) the landed value of the property, or the value of the services and contracting, and 5) the amount of use tax due.

Mail your letter and payment to the Department of Taxation, Taxpayer Services Branch, P.O. Box 259, Honolulu, HI 96809-0259.

**49. What happens if I don't pay my use tax on time?**

Penalties and interest are assessed on tax not paid by the due date of the tax return. Any payment you make first will offset the interest owed, then the penalty, and finally the tax itself.

If the tax return is filed after the due date, a penalty is assessed at the rate of 5% per month, or part of a month, up to a maximum of 25% in the aggregate. If the tax return is filed on time but no payment or insufficient payment is received, a penalty of 20% of the unpaid balance will be assessed if it is not paid within 60 days of the due date of the tax return.

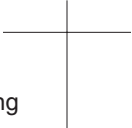

Interest is assessed at the rate of 2/3 of 1% per month, or part of a month, on the entire unpaid tax and penalty.

For EFT filers, a penalty of 2% of the amount of the tax due will be assessed if a taxpayer who is required to make payments by EFT fails to do so without reasonable cause.

**50. What should I do if I find I have made a mistake on a use tax return?**

If you reported your use tax on the combined periodic and annual general excise/use tax returns (Forms G-45 and G-49), please refer to the Department's publication entitled, "An Intro-





duction to the General Excise Tax,” for information on amending these forms.

If you make a mistake on the Use Tax Return, Form G-26, another Form G-26 must be completed within 3 years of the payment of the tax using corrected figures. Please write “AMENDED” at the top of the return in large letters.

If correcting the error results in a tax credit, the credit will be refunded to you. Any additional tax due should be paid with a check attached to your amended return.

**51. How does paying my use tax affect my State income tax?**

Any use tax you pay may NOT be taken as a credit against your income tax liability. However, if you are in business, the use tax paid due to tangible personal property, services, or contracting imported for business purposes may be deducted as a business expense as allowed under the income tax law.

**52. How can I get help if I have questions about completing my use tax returns?**

If you are subject to both the general excise tax and the use tax, filing instructions are located in the General Instructions for Filing the General Excise/Use Tax Returns.

For further information and assistance, contact any district tax office. Telephone numbers, mailing addresses, and e-mail addresses are listed at the end of this brochure.

## APPENDIX I

### IMPORTED PROPERTY, SERVICES, OR CONTRACTING WHICH IS NOT REPORTED ON USE TAX RETURNS

The following types of property, services, or contracting are not subject to the use tax. Do NOT include them in the total landed value of tangible personal property, or value of services and contracting reported on your return.

1. Property other than tangible personal property, services, or contracting (e.g. currency, issued stock certificates, etc.).
2. Newspapers and other periodical publications purchased on the subscription plan, issued at stated intervals as frequently as four times a year, and of the class admitted to the United States mails as second class matter under the laws and regulations governing the postal service.
3. Property not of a perishable or quickly consumable nature imported into Hawaii for temporary use (not sale), and which is not intended to be, nor is, kept permanently in the State. Generally, property remaining in Hawaii for 365 days or less is deemed in the State for temporary use.
4. Property acquired by the taxpayer solely by way of gift.
5. Property acquired and then returned immediately or within a reasonable time either after temporary trial or without trial.
6. Goods imported into Hawaii by the owner of a vessel or vessels engaged in interstate or foreign commerce and held for and used only as ship stores for the vessels.
7. Household goods, personal effects, and private automobiles imported into Hawaii for nonbusiness use by a person who 1) acquired them in another state, territory, district, or country; 2) at the time of the acquisition was a bona fide resident of another state, territory, district, or country; 3) acquired the property for use outside of Hawaii; and 4) made actual and substantial use of the property outside of Hawaii. If the article was acquired less than three months prior to the time it was imported, then it is presumed to have been acquired for use within Hawaii and that the actual and substantial use test therefore has not been met.
8. Aircraft kept solely for leasing or renting to lessees or renters using the aircraft for commercial transportation of passengers or goods, or the acquisition or importation of any such aircraft or aircraft engines by any lessee or renter engaged in interstate air transportation.
9. Oceangoing vehicles for passenger or passenger and goods transportation from one point to another within the State as a

public utility as defined in chapter 269, Hawaii Revised Statutes.

10. Material, parts, or tools imported or purchased by a person subject to the general excise tax which are used for aircraft service and maintenance, or the construction of an aircraft service and maintenance facility as those terms are defined in section 237-24.9, Hawaii Revised Statutes.
11. The use of property, services, or contracting imported by foreign diplomats and consular officials who are holding cards issued or authorized by the United States Department of State granting them an exemption from state taxes.
12. Any property, services, or contracting which cannot legally be taxed under the Constitution or laws of the United States.
13. Property, services, or contracting purchased from a seller who was subject to the general excise tax upon the sale or transfer of the property, services, or contracting to the user.
14. Property, services, or contracting which has previously been subject to the Hawaii use tax.
15. Aircraft or marine vessels acquired by sale or lease from a seller or lessor subject to the general excise tax on gross income derived from the sale or lease of the aircraft or marine vessel.
16. Intoxicating liquor as defined in chapter 244D, Hawaii Revised Statutes, and cigarettes and tobacco products as defined in chapter 245, Hawaii Revised Statutes, imported into the State and sold to any person or common carrier in interstate commerce, whether oceangoing or air, for consumption out-of-State by such person, crew, or passengers on the shipper's vessels or airplanes.
17. Vessels constructed under section 189-25, Hawaii Revised Statutes, prior to July 1, 1969.
18. Property, services, or contracting exempted from the general excise tax by section 237-26, Hawaii Revised Statutes, in regards to certain scientific contracts with the United States, and section 237-29, Hawaii Revised Statutes, in regards to certain low and moderate income housing projects.
19. Property exempted from the general excise tax by section 237-27.5, Hawaii Revised Statutes, in regards to air pollution control facilities.

## APPENDIX II

### EXEMPTIONS AND DEDUCTIONS

#### A. Tangible Personal Property

Hawaii's use tax law allows taxpayers to exempt the landed value of tangible personal property in three situations. In each case, the landed value must be included in the total landed value reported on use tax returns and then deducted. These exemptions are only applicable if you are subject to the general excise tax in addition to the use tax. As a result, these exemptions may only be claimed on the periodic and annual general excise/use tax returns (Form G-45 and Form G-49). The three exemptions are listed below.

1. Property imported by a wholesaler or jobber for sale at wholesale.
2. Materials or commodities that are imported by a manufacturer and incorporated into a finished or saleable product (including the container or package in which the product is contained) in such a way that they remain perceptible to the senses. In addition, the gross income derived from the sale of the finished or saleable product into which the materials or commodities are incorporated must be subject to the general excise tax as a manufacturing or wholesaling activity.
3. Commodities, materials, items, services, or living things enumerated in section 237-4(3) and (5) to (7), Hawaii Revised Statutes, such as fertilizer, seedlings, hatching eggs, breeding stock, feed, bait for catching fish, etc., which are imported into Hawaii by a producer or an agricultural or fishing cooperative association acting under chapter 421, Hawaii Revised Statutes, for sale to a licensed producer, or a licensed person, provided that the gross income derived from the sale must be subject to the general excise tax as a wholesaling activity.

Because you may not know whether the property imported will be sold at wholesale or retail at the time it is imported, the Hawaii Administrative Rules require that the value of all imports for sale be reported and the use tax at the rate of 0.5% paid at the time they are imported. When sold, a claim for a refund of the use tax paid on the value of imports sold at wholesale may be made with the Department by filing amended periodic or annual general excise tax returns (Form G-54 and Form G-55).

As an alternative, you may elect to choose 1 of 4 methods to compute the landed value of property imported for sale at wholesale. The amount computed then can be deducted from the total landed value at the time it is reported so that you only pay the actual use tax due. You do not have to pay the use tax on the entire

landed value first and then go through the process of claiming a refund on an amended tax return.

The 4 prescribed methods described below are detailed in section 18-238-2(h), Hawaii Administrative Rules.

#### **METHOD 1- THE DIRECT COST METHOD (SPECIFIC IDENTIFICATION)**

The first method used to compute the deduction allowed on Form G-45 or G-49 is the direct cost method. Under this method, you deduct in column b the value of the items actually sold at wholesale. In order to use this method, you must be able to accurately ascertain from your records, category by category, the specific cost of the items on which you are subject to the general excise tax as a manufacturing or wholesaling activity that you included in imports and purchases from unlicensed sellers for the month.

##### Method 1 Example

1. Landed Value of All Imports For Resale (Line 17, Column a)	\$50,000
2. Landed Value of Automobiles and Accessories Included in Item 1 Sold at Wholesale	
Model "X" Sedans	\$4,000
Model "Y" Delivery Trucks	6,000
Model "Z" Station Wagons	2,000
Accessories	<u>1,000</u>
Landed Value to be Excluded (Line 17, Column b)	<u>\$13,000</u>
3. Balance Subject to the Use Tax (Line 17, Column c)	<u>\$37,000</u>

#### **METHOD 2 - PERCENTAGE OF WHOLESALE SALES TO TOTAL SALES METHOD**

The second method used to compute the deduction allowed on Form G-45 or G-49 is the percentage of wholesale sales to total sales method. Under this method, you first need to determine what percent of your total sales for the month are sales at wholesale. To obtain this percentage, you divide your gross income derived from wholesaling (line 1, column a) by the gross income derived from both wholesaling and retailing (line 1, column a, plus line 8, column a). Next, multiply the total value of all imports for sale (line 17, column a) by this percentage. The result is the value of imports for sale at wholesale which can be deducted in column b of line 17.

#### Method 2 Example

1. Landed Value of All Imports For Resale (Line 17, Column a)	\$50,000
2. Gross Income From Wholesaling (Line 1, Column a)	\$15,000
3. Gross Income From Retailing (Line 8, Column a)	<u>85,000</u>
4. Total Gross Income From All Sales	<u>\$100,000</u>
5. Percentage of Wholesale Sales to Total Sales (\$15,000 ÷ \$100,000)	15%
6. Landed Value to be Excluded (\$50,000 x .15) (Line 17, Column b)	<u>7,500</u>
7. Balance Subject to the Use Tax (Line 17, Column c)	<u>\$42,500</u>

#### **METHOD 3 - GROSS PROFIT PERCENTAGE METHOD**

The third method used to compute the deduction allowed on Form G-45 or Form G-49 is the gross profit percentage method. First, determine your average gross profit percentage by dividing the excess of the sales price over the cost of the imported item by the sales price, and then computing the average of all those percentages. Second, multiply your gross income derived from sales at wholesale (line 1, column a) by the average gross profit percentage to get your gross profit on wholesale sales. Third, subtract your gross profit on wholesale sales from your gross income derived from sales at wholesale. The result is the cost of items sold at wholesale which can be deducted in column b of line 17.

#### Method 3 Example

1. Landed Value of All Imports For Resale	\$50,000
2. Gross Income From Wholesaling of Imported Items (Line 1, Column a)	\$10,000
3. The Average Gross Profit Percentage as Determined From the Taxpayer's Records	<u>40%</u>
4. Gross Profit on Wholesale Sales (\$10,000 x .40)	<u>\$4,000</u>
5. Landed Value to be Excluded (\$10,000 - \$4,000) (Line 17, Column b)	<u>6,000</u>
6. Balance Subject to Use Tax (Line 17, Column c)	<u>\$44,000</u>

#### **METHOD 4 - OTHER METHODS**

The fourth method is not a Departmentally specified method. Rather, you are allowed to use any other method which will reflect your correct tax liability. If you choose this option, your proposed method must first be submitted to the Department for approval.

Copies of Section 18-238-2(h), Hawaii Administrative Rules, may be obtained from the Department's website or from any district tax office.

##### **B. Services and Contracting**

Hawaii's use tax law allows taxpayers to exempt the value of services and contracting in four situations. In each case, the value must be included in the total value reported on use tax returns and then deducted. These exemptions are only applicable if you are subject to the general excise tax in addition to the use tax. As a result, these exemptions may only be claimed on the periodic and annual general excise/use tax returns (Form G-45 and Form G-49). The four exemptions are listed below.

1. Imported services or contracting that become identifiable elements (excluding overhead) of a product or service which the importer or purchaser resells at the 0.5% general excise tax rate or the phased-in general excise tax rates under section 237-13.3, Hawaii Revised Statutes.
2. Services or contracting that are imported by a manufacturer and that become identifiable elements (excluding overhead) of a finished or saleable product (including the container or package in which the product is contained). In addition, the gross income derived from the sale of the finished or saleable product in which the services or contracting become identifiable elements (excluding overhead) must be subject to the general excise tax as a wholesaling activity.
3. Services or contracting imported for resale where the contracting or services are for resale, consumption, or use outside the State pursuant to section 237-29.53(a), Hawaii Revised Statutes.
4. Contracting imported or purchased by a contractor as defined in section 237-6, Hawaii Revised Statutes, who is licensed under the General Excise Tax Law, engaged in business as a contractor, and subject to the tax imposed under section 238-2.3, Hawaii Revised Statutes.

## APPENDIX III

### CREDIT FOR SALES TAX PAID TO ANOTHER STATE

Although not an exemption or deduction, the use tax law does provide for a credit against your use tax liability for sales or use taxes paid to another state on that property, services, or contracting. This credit is property, services, or contracting specific; that is, the sales or use tax paid on a specific property, services, or contracting imported may only be used to offset the use tax due on that same property, services, or contracting. Any excess sales tax paid cannot be used to offset the use tax due on a different property, services, or contracting. Therefore, the maximum amount of credit which you can claim is the lesser of the sales tax paid on the specific property, services, or contracting imported or the use tax due on the landed value or value of the same imported property, services, or contracting.

**CAUTION:** A tax paid for manufacturing, extraction, and the like, which is not a sales or use tax may NOT be taken as a credit against the Hawaii use tax due.

Although the use tax return for reporting imports for consumption (Form G-26) has a special line for claiming this credit, the periodic and annual general excise/use tax returns (Form G-45 and Form G-49) do not. As a result, the following special steps should be taken to claim the credit when reporting the use tax on the periodic and annual general excise/use tax returns.

- STEP 1 - Determine the exact amount of use tax due on the property, services, or contracting imported.
- STEP 2 - Compare the use tax due with the sales or use tax paid to another state on that property, services, or contracting. Divide the lesser of the two amounts by .005 if the landed value or value of that property, services, or contracting was reported on line 17, or by .04 if the landed value or value of that property, service, or contracting was reported on line 18.
- STEP 3 - Enter the amount computed in step 2 above in column b of line 17 or 18 as applicable. Subtract this amount from column a of the same line and enter the result in column c. Multiply column c by the rate in the column to the right of column c and enter the result in column d. This is the use tax which exceeds the sales tax paid.

#### Example

Mary Smith purchased a specialized machine for use in her business for \$500 from an out-of-State vendor not doing business in Hawaii. In addition, she had to pay \$15 (3%) in state sales tax and \$50 in shipping, handling and insurance charges. She will



report the import on line 18 or her periodic general excise tax return, Form G-45.

STEP 1 - Sales Price (Does not include sales tax paid)	\$500
Shipping, Handling and Insurance	<u>50</u>
Total Landed Value	\$550
Use Tax Rate	<u>4%</u>
USE TAX DUE	<u>\$22</u>

STEP 2 - The sales tax paid (\$15) is less than the use tax due (\$22).

$$\$15 \div .04 = \$375$$

STEP 3 - Schedule B, line 18, of Mary's periodic general excise tax return will be completed as follows:

SCHEDULE B - ACTIVITIES UNDER CHAPTER 238, HRS - USE TAX LAW									
IMPORTS FOR RESALE AT RETAIL	17						.005		17
IMPORTS FOR CONSUMPTION	18	550	00	375	00	175	00	.04	7 00 18

In this example, please note that the \$7 use tax due is the difference between the use tax due and the credit for state sales or use tax paid to another state (\$22 -15 = \$7).

## NEED TO CONTACT A DISTRICT TAX OFFICE?

The mailing addresses, locations, telephone numbers, fax numbers, and e-mail addresses are listed below:

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### OAHU DISTRICT OFFICE

First Taxation District  
P. O. Box 259  
Honolulu, HI 96809-0259

Princess Ruth Keelikolani Bldg.  
830 Punchbowl St.  
Honolulu, HI 96813-5094

#### TAXPAYER SERVICES

Information: (808) 587-4242  
1-800-222-3229

TDD/TTY: (808) 587-1418  
1-800-887-8974

Fax No.: (808) 587-1488

Taxpayer\_Services@tax.state.hi.us

#### FORMS BY FAX/MAIL

(808) 587-7572  
1-800-222-7572

#### COMPLIANCE DIVISION

TDD/TTY: (808) 587-1419  
1-800-961-5369

#### Field Audit Branch

(808) 587-1700  
Fax No.: (808) 587-1699  
Field\_Audit@tax.state.hi.us

#### Office Audit Branch

(808) 587-1660  
Fax No.: (808) 587-1633  
Office\_Audit@tax.state.hi.us

#### Collection Branch

(808) 587-1600  
Fax No.: (808) 587-1720  
Oahu\_Collection@tax.state.hi.us

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### MAUI DISTRICT OFFICE

Second Taxation District  
P. O. Box 1169  
Wailuku, HI 96793-6169

State Office Building  
54 S. High St., #208  
Wailuku, HI 96793-2198

Telephone No.: (808) 984-8500  
E-mail: Maui\_Office@tax.state.hi.us

Fax No.: (808) 984-8522

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### HAWAII DISTRICT OFFICE

Third Taxation District  
P. O. Box 833  
Hilo, HI 96721-0833

State Office Building  
75 Aupuni St., #101  
Hilo, HI 96720-4245

Telephone No.: (808) 974-6321  
E-mail: Hilo\_Office@tax.state.hi.us

Fax No.: (808) 974-6300

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### KAUAI DISTRICT OFFICE

Fourth Taxation District  
3060 Eiwa St., #105  
Lihue, HI 96766-1889

State Office Building  
3060 Eiwa St., #105  
Lihue, HI 96766-1889

Telephone No.: (808) 274-3456  
E-mail: Kauai\_Office@tax.state.hi.us

Fax No.: (808) 274-3461



### **NEED MORE INFO?**

The Department wants to cut some of the red tape and reduce the bureaucracy faced by Hawaii taxpayers.

If you have a state tax problem, have a question, or need assistance, dial toll-free:

**1-800-222-3229**

### **JUST NEED A TAX FORM?**

Ask for your form and CD-ROM order form by fax/mail by dialing:

**(808) 587-7572**

**1-800-222-7572**

### **INTERNET ADDRESS?**

Tax information and tax forms also are available on the Internet at:

**[www.state.hi.us/tax](http://www.state.hi.us/tax)**

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By Rules Office